

**CITY OF HELENA**  
**REGULAR CITY COMMISSION MEETING**  
**March 23, 2015**  
**6:00 P.M.**

***Time & Place***

A regular City Commission meeting was held on Monday, March 23, 2015 at 6:00 p.m., in the Commission Chambers, 316 N. Park Avenue, Helena, Montana.

***Members Present***

Mayor Smith indicated for the record that Commissioners Elsaesser, Ellison, Haque-Hausrath and Haladay were present. City Manager Ron Alles, City Attorney Thomas Jodoin and Deputy City Clerk Robyn Brown were present. Others present were Terry Ray representing the Helena Citizens Council.

***Pledge of Allegiance***

Mayor Smith asked those persons present to please stand and join him in the pledge of allegiance.

***Minutes***

The minutes of the regular City Commission meeting of March 9, 2015 were approved as submitted.

***Consent Agenda***

**CONSENT AGENDA:**

- A. Claims
- B. Resolution declaring tangible personal property owned by the City of Helena to be surplus property and authorizing the sale or disposal of that property (vehicles and miscellaneous equipment). **Res #20154**
- C. Final passage of Ordinance No. 3205 pre-zoning wholly surrounded property in Lewis and Clark County prior to annexation into the City of Helena, Montana.

City Manager Ron Alles recommended approval of the claims and the consent agenda.

Commissioner Elsaesser requested item C be removed for discussion.

***Discussion***

Commissioner Elsaesser referred to Item B and asked if all City departments have been surveyed to see if they could utilize any of the vehicles proposed for surplus. Manager Alles stated yes and explained the property proposed for surplus would be transferred if appropriate.

***Public comment***

Mayor Smith asked for public comment; none was received.

***Motion***

**Commissioner Elsaesser moved approval of items A and B on the consent agenda.** Commissioner Haque-Hausrath seconded the motion. All voted aye, motion carried.

***Item C***

- C. FINAL PASSAGE OF ORDINANCE NO. 3205 PRE-ZONING WHOLLY SURROUNDED PROPERTY IN LEWIS AND CLARK COUNTY PRIOR TO ANNEXATION INTO THE CITY OF HELENA, MONTANA.

***Discussion***

Commissioner Elsaesser spoke in opposition to final passage of Ordinance No. 3205 and expressed concern for the pre-zoning being

proposed as it may be problematic and adversely affect some parts of the area. He recommended some form of customized zoning that recognizes the unique situation on the Westside be considered instead.

Public comment

Mayor Smith asked for public comment.

Joan Rada, Helena; reported a task force has already begun working diligently investigating possibilities for the formation of an Special Improvement District (SID) and grant funding for the Westside Annexation Project and requested the pre-zoning be postponed while they work on the issue.

Ms. Sandberg, Helena; asked if a Rural Improvement District (RID) were created for Phases 1-4, would that preclude Phases 2-4 from protesting annexation when the time comes.

Manager Alles explained much of the Westside, particularly south of Hauser is already pre-zoned. Adoption of the proposed ordinance would not preclude the formation of an SID/RID or Sewer District. With regard to annexation, it would be specific to the area in question as many properties in those areas have already signed a waiver of right to protest annexation because they are already hooked up to city sewer and/or water.

Commissioner Haladay asked if a RID is formed, where does the water come from and/or the sewer go. Manager Alles stated the water and sewer would come from the city. The formation of a special district would just change the methodology for how the infrastructure is paid for.

Discussion was held on a Supreme Court ruling that suggests refusal to annex can result in services being shutoff to existing non-annexed users.

Motion

**Commissioner Hague-Hausrath moved approval of Item C on the consent agenda.** Commissioner Haladay seconded the motion.

Comment

Commissioner Elsaesser commented he is not against the city working to establish infrastructure/water and sewer to the Westside as its well within the goals of the City's Growth Policy; he just doesn't feel the plan is as ready as it needs to be.

Commissioner Ellison stated he does not believe the proposal to pre-zone the area will hinder or cause hardship to the citizen effort to form a RID/SID for the area. He added he does not feel the Commission's efforts to look at alternative zoning options will bear fruit in the near future. For those reasons he indicated he would vote in support of final passage of the ordinance.

Commissioner Haladay echoed Commissioner Ellison's comments and spoke of concerns previously stated by Mayor Smith related to the permissiveness of CUPs on the Westside. He discussed the Commission's authority to deny CUPs that do not seem to fit well with the character or design of the neighborhood and stated he feels it will be incredibly important for the Commission to do so moving forward.

Vote

Motion carried 4-1, with Commissioner Elsaesser voting no.  
**Ord #3205**

**Communications**

**COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS**

Commissioner Elsaesser relayed he recently received many compliments on Centennial Trail and the City's dedication to the project from folks visiting Helena for a tourism conference.

He spoke of the upcoming budget process and his interest in finding a way to more specifically allocate large multi-year projects in the CCIP to prevent large shifts in costs and delays and increase public input.

**By-law amendment**

**Commissioner Haladay moved to amend the City Commission by-laws to create by-law Number 13. Tie Votes.**

Commissioner Haque-Hausrath seconded the motion.

**Discussion**

Commissioner Haladay read the proposed by-law language for the record:

**13. Tie Votes. In the event a vote ends in a tie because a Commissioner is not present, the matter shall be deemed "a matter of special significance" and postponed until the next meeting of the whole Commission. There are exceptions to this rule when (1) a tie occurs because a Commissioner is recused from voting, or (2) the matter under consideration requires action by reason of chronological deadline. In the event of any exception, the tie vote constitutes a failure of the motion or action.**

He clarified the proposed amendment is not a substitution for the current policy where a Commissioner can request a decision on a matter of be postponed until a full Commission is present. He gave the history behind and reasoning for his proposal and explained it clears the Commission to reconsider items without breaking its own policy.

Mayor Smith asked Attorney Jodoin if the proposed by-law amendment is within the authority of the Commission to act on. Attorney Jodoin stated yes.

Thorough discussion was held on the intent and implications of the proposed by-law amendment.

Mayor Smith spoke in support of the amendment and stated if it were to create procedural issues for the Commission, the by-laws could be changed again to remove it.

Commissioner Elsaesser reiterated his opposition and concern for the proposal as he does not feel it is a solution to a problem. He commented he believes it could end up being a hindrance and lead to agenda items lingering on.

**Vote**

Motion carried 4-1, with Commissioner Elsaesser voting no.

**Report of the City Attorney**

**REPORT OF THE CITY ATTORNEY**

No report was given.

**Report of the City Manager**

**REPORT OF THE CITY MANAGER**

Manager Alles commented several members of the Commission had inquired about the status of the formation of a TIF District in the Railroad District. He reported City staff is working with the same consultant that provided staff and interested parties with the "TIF 101" presentation. Montana Business Assistance Connection (MBAC) and Lewis & Clark County will also be working on the project. The intent is to

apply for a Big Sky Economic Development Grant and the cost to hire the consultant to assist with the grant application is estimated at \$20,000.

**Report from the  
Helena Citizens  
Council**

**REPORT FROM THE HELENA CITIZENS COUNCIL**

HCC member Terry Ray reported Aimee Fausser resigned as HCC Chair and Shawn White Wolf is now Chair; a new Vice-Chair will be elected at the HCC's regular monthly meeting Wednesday, March 25<sup>th</sup>. Council Member Ray stated the HCC will also be discussing the City's budget process and budget recommendations at its March meeting.

**Regular Items**

**REGULAR ITEMS:**

**A. CONSIDER A RESOLUTION REQUESTING A MAIL BALLOT ELECTION FOR THE CITY'S 2015 PRIMARY AND GENERAL ELECTIONS.**

**Staff Report**

City Attorney Jodoin reported the Helena City Commission approved Resolution No. 19992, including Section 3 regarding the mailing timeline, requesting the election administrator use mail ballots for the City's 2013 elections.

Staff is recommending approval of a resolution requesting the Lewis & Clark County Clerk and Recorder, as election administrator for City elections, use mail ballots to conduct the City's primary election, if held, on September 15, 2015, and its general election on November 3, 2015. The resolution also requests the Lewis & Clark County Clerk and Recorder, as election administrator for City elections, use AutoMARK machines for said elections or other comparable and available technology for voters who may need or desire to use same, absent a sufficient change in law and/or pertinent circumstances to justify failure or refusal to use the same.

Attorney Jodoin noted the use of mail ballots may result in higher voter turnout and reduce costs of conducting the elections, as election judges would not be required.

**Discussion**

Mayor Smith asked for the estimated costs for both types of election. Attorney Jodoin explained a mail ballot election is estimated at \$68,600 and a polling place election is estimated at \$71,774.

**Public comment**

Mayor Smith called for public comment; none was received.

**Motion**

**Commissioner Haque-Hausrath moved approval of a resolution requesting a mail ballot election for the City's 2015 primary and general elections.** Commissioner Ellison seconded the motion. All voted aye, motion carried. **Res #20151**

**B. CONSIDER THE FINAL PLAT FOR CRAFTSMAN VILLAGE PHASE II OF THE CROSSROADS AT MOUNTAIN VIEW MEADOWS SUBDIVISION; GENERALLY LOCATED EAST OF ALICE STREET AND NORTH OF STACIA AVENUE.**

**Staff Report**

City Planner Lucy Morell-Gengler reported on May 7, 2012, the Helena City Commission gave conditional preliminary plat approval for the Crossroads Amendment at Mountain View Meadows Subdivision.

The applicant is now requesting approval of the final plat for Craftsman Village Phase II of the Crossroads at Mountain View Meadows.

This final plat would create 16 residential lots and Lot 3-A intended for a future phase for a total of 17 lots. Property is located in the city and is zoned R-4 (Residential) District.

This plat includes the dedication of rights-of-way for the extension of Alexis Avenue and a portion of Swift Current Street which provides legal and physical access to the proposed residential lots. Alice Street is a future collector street thus vehicular access is restricted for residential lots.

Water and wastewater mains have been installed in adjacent streets but paving Alexis Avenue and Swift Current has not been completed. The applicant is proposing a financial guarantee for the outstanding improvements. The subdivision is not dependent on future phases and can 'stand-alone'.

The applicant is proposing to deduct the amount of parkland required with this final plat from the excess parkland already dedicated to the city by the subdivider.

The approval of the preliminary plat was subject to the conditions stated in the Findings of Fact which have been completed for this phase. Water and wastewater mains, stormwater facilities, and access have been installed and accepted by the city or financially guaranteed.

Approving the final plat would allow the sale of the lots, and would encourage the development of property in this area with city services including municipal water and wastewater; and would promote development to urban densities in close proximity to current and future employment, shopping, and other services which has the potential to reduce vehicle miles traveled in the Helena area. Planner Morell-Gengler recommended approval of the final plat.

Public comment

Mayor Smith called for public comment; none was received.

Motion

**Commissioner Ellison moved approval of the final plat for the Craftsman Village Phase II of the Crossroads at Mountain View Meadows Subdivision creating 17 lots and to accept the dedication to the city of the property for public improvements designated thereon.** Commissioner Haladay seconded the motion. All voted aye, motion carried.

C. CONSIDER THE DEDICATION OF CITY OWNED PROPERTY FOR KELLEHER LANE RIGHT-OF-WAY; GENERALLY LOCATED NORTH OF THE CUSTER AVENUE/KELLEHER LANE INTERSECTION.

D. CONSIDER THE FINAL PLAT FOR BURNHAM RANCH PHASE 1, LEGALLY DESCRIBED AS TRACT1 SHOWN ON COS #3069987; GENERALLY LOCATED NORTHEAST OF THE CUSTER AVENUE /KELLEHER LANE INTERSECTION.

E. CONSIDER THE RELEASE OF A PORTION OF THE CITY'S INTEREST IN A STORMWATER EASEMENT, DOCUMENT #3196412, LOCATED ON TRACT 1 OF CERTIFICATE OF SURVEY #3069987; GENERALLY LOCATED NORTH OF CUSTER AVENUE IN THE PROPOSED BURNHAM RANCH PHASE 1 SUBDIVISION.

## Staff Report

Planner Morell-Gengler stated on December 3, 2007 the Helena City Commission conditionally approved the preliminary plat for the first phase of the Burnham Ranch development. Condition three of that approval states "Since the proposal indicates the utilization of city property for the Kelleher Drive ROW, a plat of the City's property showing the Kelleher Drive ROW must be approved by the City and filed with the county clerk and recorder."

A portion of City property approximately 73-foot wide and 526-foot long is required for Kelleher Lane right-of-way (ROW) in accordance with the Burnham Ranch Phase 1 subdivision approval. A 35-foot wide portion of this city property is currently designated as an access easement for Kelleher Drive, Certificate of Survey (COS) 3069987; and the remaining 38-foot wide portion of city owned property is a part of Tract 1 of COS #3137037. This ROW will be combined with ROW being dedicated with the Burnham Ranch Phase 1 final plat completing the 76-foot wide Kelleher Lane. Kelleher Lane has been installed per the conditions of the approved preliminary plat.

Ms. Morell-Gengler recommended approval of the proposed ROW dedication as it will facilitate completing the conditions of final plat for the Burnham Ranch Phase 1 Subdivision.

On December 3, 2007 the Helena City Commission conditionally approved the preliminary plat for the first phase of the Burnham Ranch development known as the Burnham Ranch Marketplace Subdivision. The name has been changed to Burnham Ranch Phase 1 Subdivision in anticipation of future development to the north of the subject property. The initial approval was for 3 years but the City Commission has granted several extensions since the original approval.

The applicant is now requesting approval of the final plat for the Burnham Ranch Phase 1 Subdivision. This final plat will create 15 lots from approximately 16.22 acres located in a B-2 (General Commercial) District. Fourteen of the lots are intended for private ownership, Lot 15 for the lift station will be transferred to the City. This plat includes the dedication of right-of-way (ROW) for Shorthorn Avenue and Kelleher Lane. An easement to the City for the stormwater pond is also included. Water and wastewater mains, stormwater facilities, and access have been installed although not finalized thus a financial guarantee has been provided for completion of the remaining items such as chip seal and restriping.

The approval of the preliminary plat was subject to the conditions stated in the Findings of Fact which have been completed for this phase. A plat showing the dedication of a portion of city property for Kelleher Lane ROW has also been submitted in compliance with the conditions of approval.

Ms. Morell-Gengler recommended approval of the final plat as it will allow the sale of the lots and would encourage the development of property in this area with city services including municipal water and wastewater and promotes the development of commercial services in close proximity to recreational facilities and large employers which has the potential to reduce vehicle miles traveled in the Helena area.

Planner Morell-Gengler explained in 2010, a certificate of survey (COS) creating a mortgage tract within the Burnham Ranch property was filed to facilitate construction of the Residence Inn by Marriott. The stormwater infrastructure serving the Residence Inn development was not located within the mortgage tract, thus an easement was established

to assure access to the stormwater facility should the ownership of the tract be transferred or the subdivision not completed.

A new larger stormwater facility serving the entire subdivision including the Residence Inn and street right-of-way (ROW) has been installed as a part of the final plat. The previous stormwater facility that only served the Residence Inn and area ROW has been abandoned.

The applicant is now requesting approval of the final plat for Burnham Ranch Phase 1 Subdivision and simultaneous release of the City's interest in portions of the stormwater easement as described in the attached release. The portion of the stormwater easement located on future Lot 5 will be retained by the city.

There are no City facilities in the subject easement and new easements are provided to accommodate the new stormwater facilities. Approving the release of the City's interest in this easement would facilitate the development of this property. Ms. Morell-Gengler recommended approval of the proposed release.

Public comment                      Mayor Smith called for public comment; none was received.

Comment                              Commissioner Elsaesser noted he feels all of the actions related to this subdivision being proposed tonight are well in accordance with the City's Growth Policy.

Motion                                **Commissioner Haladay moved approval of the dedication of right-of-way for Kelleher Lane as shown on the attached Certificate of Survey as Tract 1RW.** Commissioner Ellison seconded the motion. All voted aye, motion carried.

Motion                                **Commissioner Ellison moved approval of the final plat for the Burnham Ranch Phase 1 Subdivision creating 15 lots and to accept the dedication to the city of the property for public improvements designated thereon.** Commissioner Haladay seconded the motion. All voted aye, motion carried.

Motion                                **Commissioner Elsaesser moved approval of the release of a portion of the city's interest in the stormwater easement, document #3196412, located on Tract 1 of Certificate of Survey #3069987 as described in the attached Release of Interest in Utility Easement.** Commissioner Haque-Hausrath seconded the motion. All voted aye, motion carried.

F. CONSIDER A RESOLUTION OF INTENTION TO ANNEX PROPERTY LEGALLY DESCRIBED AS LOTS 27-32 IN BLOCK 182 LOCATED PARTIALLY IN THE SYNDICATE ADDITION AND PARTIALLY IN THE BROOKE ADDITION, IN LEWIS AND CLARK COUNTY, MONTANA, GENERALLY LOCATED NORTH OF CHOTEAU STREET AND EAST OF WINSTON STREET, AND THE ADJACENT STREETS AND ALLEY RIGHTS-OF-WAY.

**Public Hearings**

**PUBLIC HEARINGS:**

- A. CONSIDER FIRST PASSAGE OF AN ORDINANCE PRE-ZONING TO R-2 (RESIDENTIAL) PRIOR TO ANNEXATION INTO THE CITY OF HELENA FOR PROPERTY LEGALLY DESCRIBED AS LOTS 27-32 IN BLOCK 182 OF THE SYNDICATE & BROOKE ADDITION, ADJACENT TO CHOTEAU STREET, AND ALLEY RIGHTS-OF-WAY.

**Staff Report**

City Planner Dustin Ramoie reported the applicants have requested the annexation of Lots 27-32 in Block 182 located partially in the Syndicate Addition and partially in the Brooke Addition and adjacent Choteau Street and alley rights-of-way. The property is adjacent to the City of Helena and is located within the "Urban Standards Boundary Area." It is in accordance with the 2011 Growth Policy to annex property that is adjacent to the city and within the defined "Urban Standards Boundary Area." The property is vacant and the applicants wish to develop a portion of these lots and as a result have petitioned the city for annexation to attain all city services and to utilize the property with an R-2 (Residential) zoning designation. With annexation, extension of the water and wastewater service boundary will occur.

Annexation of the property will eliminate the need for individual well and septic to develop the property and will allow the property to be served with all city services once developed. Planner Ramoie recommended approval of the resolution of intention.

Planner Ramoie continued the applicants are proposing this pre-zoning and annexation to provide all city services for residential development of the property. City ordinance requires property to be pre-zoned prior to annexation. Current land use in the area includes but is not limited to single dwelling residential and multifamily residential. This pre-zoning would become effective upon annexation.

On February 10, 2015 the Helena Zoning Commission recommended approval for the pre-zoning to the R-2 (Residential) District for the subject property by a 5-0 vote. Pre-zoning and annexation into the City will allow for development of the subject property with full City services and eliminate the need for individual well and septic. Planner Ramoie recommended approval of the proposed ordinance.

**Public Testimony**

Mayor Smith declared the public portion of the hearing open and called for any persons wishing to address the Commission.

Marjorie Wilmer, applicant; explained her desire to annex and requested the Commission approve her proposal.

Joan Rada; asked if this property would be included in Phase 1 of the Westside Annexation Project.

There being no further persons wishing to address the Commission, Mayor Smith closed the public hearing.

**Motion**

**Commissioner Ellison moved approval of a resolution of intention to annex property legally described as Lots 27-32 in Block 182 located partially in the Syndicate Addition and partially in the Brooke Addition, in Lewis and Clark County, Montana, generally located north of Choteau Street and east of Winston Street, the adjacent streets and alley rights-of-way, and establish the conditions of annexation.** Commissioner Elsaesser seconded the motion.



Discussion

Commissioner Ellison thanked Ms. Wilmer for her testimony and indicated he would support the resolution of intention to annex and pre-zoning. He asked for more information on how the proposal is related to Phase 1 of the Westside Annexation Project. Mr. Ramoie explained the property is located in Phase 2 of the project area but would be connected to water mains installed in Phase 1 via looping and by participating in a rebate with the City for their proportional share.

Commissioner Ellison asked if it is more cost efficient and labor efficient if the water main is looped rather than installed in one area at a time. Planner Ramoie stated that is correct for water as well as fire flows.

Vote

All voted aye, motion carried. **Res #20152**

Motion

**Commissioner Hague-Hausrath moved approval for the adoption of an ordinance for a pre-zoning designation to R-2 (Residential) District, amending City of Helena Ordinance No. 2359 and the official zoning map after the property is annexed; for property legally described as Lots 27-32 in Block 182 of the Syndicate & Brooke Addition, Helena, Montana.** Commissioner Haladay seconded the motion. All voted aye, motion carried. **Ord #3206**

- B. CONSIDER ENLARGEMENT OF THE CITY'S WASTEWATER SERVICE AREA TO INCLUDE LOT 13 OF THE COUNTRY CLUB PARK SUBDIVISION; THE PROPERTY IS GENERALLY LOCATED NORTH OF COUNTRY CLUB AVE AND EAST OF HEAD LANE.

Staff Report

Planner Ramoie reported James and Jennifer Scoles have made application to the City of Helena to enlarge the Wastewater Service Area to include the property legally described as Lot 13 of the Country Club Park subdivision, located in Section 14, T. 10 N, R 4 W, Lewis and Clark County, Montana. Lot 13 is adjacent to a city wastewater main and is approximately 9.5 acres. That main was installed in order to provide city wastewater services to Ft. Harrison to the west. It is the applicant's intention to develop Lot 13 with a single family home.

The subject property is located about .36 of a mile outside the city limits and is located north of the active Montana Rail Link line. Construction has been almost completed on the house at this time. The applicant is awaiting the outcome of this hearing to determine if the house will be hooked in to the City's wastewater system or install a septic system.

The previously mentioned wastewater main runs adjacent to the northern boundary of Lot 13. Department of Environmental Quality rules do not permit individual septic systems to be installed if a public or community wastewater system is available within 500 feet. Currently Lot 13 is within 250 feet of a City's wastewater main.

The City has previously enlarged the Wastewater Service Area to allow nearby properties to connect to the same wastewater main. The Meadow Mountain Inn along with another property on Head Lane were added to the Wastewater Service Area in 2006. In January 2007, Lot 15 of Country Club Park was added to the Wastewater Service Area. In 2008, Lot 12 was added to the Wastewater Service Area. All of these properties are accessed from the same shared drive off of Head Lane.

Title 6, Chapter 5 of Helena City Code requires the property applying for enlargement of service areas to petition for annexation. If the property is contiguous to service area boundaries for both water and wastewater, the property must be annexed. If the property is not contiguous, as in this situation, then the City Commission can determine whether to annex or agree to defer annexation. The applicants have requested deferral of annexation and have signed an agreement that petitions for and waives the right to protest annexation. The agreement imposes obligations upon the property owners to extend City water and install other public infrastructure such as streets, sidewalks, curbs, and gutters at their own cost. The agreement also governs any further development of the property to ensure that further development will be built to city standards.

This proposal will allow the applicants to develop their property without the use of an individual septic system. Conditions outlined in an agreement would prevent any further development of the property without review and approval from the City.

It was noted the City would get "nutrient credit" on its wastewater permit for the connection to its sewer main. The City will also control further subdivision of the property unless brought to complete City standards.

Annexation at this time is not in the City's best interests due to the fact that the property is not adjacent to current City limits and is located north of the railroad tracks with no city maintained and controlled route to the property for annexation. These circumstances make annexation of the property and thus provision of police and fire protection extremely difficult. Further, because there is not a City water main in the vicinity there are no fire hydrants available for the Helena Fire Department to use for fire suppression efforts.

The property is also outside of the "Urban Standards Boundary" as set forth in the 2011 City of Helena Growth Policy and will encourage the use of an exempt 35 gpm well. Finally, enlarging the Wastewater Service Area to include the property will use capacity at the City's wastewater treatment plant that may be best reserved for property that annexes into the City.

#### Discussion

Commissioner Ellison asked for the nearest City limit boundary to the subject property. Planner Ramoie stated the proposal is approximately .4 miles from closest boundary.

Commissioner Haque-Hausrath asked if the Commission is allowed to place conditions on this proposal if approved. Manager Alles stated yes. He gave the history of the proposal, explaining it was before the City Commission approximately three years ago and was denied. He noted he agreed to put it on the agenda for consideration again tonight at the applicant's request. Manager Alles indicated the previous denial was, in part, because it lies outside the Urban Services Boundary. Also because it was intended to encourage the County to adopt more stringent zoning regulations and emphasize the City wasn't just going to provide water/wastewater service in areas of the County where it was failing.

At the previous hearing, DEQ was in the midst of renewing the City's wastewater permit and would not have offered the City a nutrient credit for preventing the installation of new septic systems near the City limits. Manager Alles referenced staff's recommendation for denial of the proposal and indicated it is appropriate for staff to do so because the

property lies outside of the Urban Services Boundary. However, he wanted the Commission to be aware of other issues surrounding the proposal that could be taken into consideration.

Commissioner Haque-Hausrath asked for clarification if this is a single-family home on 9.5 acres. Planner Ramoie stated that is correct and added construction of the home is near completion and at this time the applicant is waiting for a determination on whether to connect to City wastewater or install a drainfield.

Commissioner Ellison asked for more information on route and location of the wastewater line. Planner Ramoie stated the line was installed mainly to serve Fort Harrison; however, he is unsure of how the route was determined.

Commissioner Haladay asked for clarification of the rule by DEQ that prohibits septic systems from being installed if the property is within 500 feet from a municipal wastewater service line; the subject property is 250 feet from a line yet Lewis & Clark County has already permitted a septic system for the property. Mr. Ramoie explained DEQ requires if the property is within the identified distance, the first option the property owner must pursue is to apply to hook into the municipal system. Manager Alles explained the applicant's previous denial by the City allowed them to apply to Lewis & Clark County for a variance from that DEQ rule.

Commissioner Haladay asked for more information on how the Commission would apply conditions to approval of this proposal. Attorney Jodoin explained City Code includes minimum conditions that are incorporated into any agreement for extension of services such as this. If this proposal were approved, Attorney Jodoin recommended a specific condition be added in the motion requiring the applicant pay a rebate to the developer of Stone Meadows Subdivision for the use of excess capacity at the Stone Meadows lift station.

#### Public Testimony

Mayor Smith declared the public portion of the hearing open and called for any persons wishing to address the Commission.

Jim Scoles, applicant; noted he is an engineer with Morrison-Maierle Engineering, but wastewater is not his expertise. He explained cost factored into their application for this extension, as they will be required to install a type 2 (raised mound) septic system due to high groundwater in the area and such a system is very costly. He reported he already has a well installed on the property, as it was needed for construction of the home, which is approximately 6 months into construction. He distributed a map to the Commission showing properties already hooked into the wastewater line and existing stub-outs in the area. The property is a natural corridor to bring water lines out to the area; wastewater was run through the subject property initially because it was best option, cost-wise and location-wise.

Mr. Scoles commented the most environmentally prudent option is to use municipal wastewater and thanked the Commission for considering his request.

There being no further persons wishing to address the Commission, Mayor Smith closed the public hearing.

#### Discussion

Commissioner Elsaesser asked if it costs more for the City to maintain such a connection to the wastewater system and if so, is there a way to account for that in the rates that would be charged to the applicant. Manager Alles explained the same amount is charged

whether you are in or outside the City limits. He recommended the Commission consider implementing a surcharge in these situations.

Commissioner Elsaesser asked how much the rebate for the Stone Meadows lift station is anticipated to cost. Attorney Jodoin stated he was unsure of the exact amount; however, it would be relatively low—a one-time payment of less than a couple thousand dollars.

**Motion**

**Commissioner Elsaesser moved approval of enlargement of the city of Helena Wastewater Service Area to include all of Lot 13 of the Country Club Park subdivision, Lewis and Clark County, Montana; subject to conditions set forth in agreement and subject to a condition referencing paying a rebate to the developer of the Stone Meadows Subdivision/lift station.** Commissioner Ellison seconded the motion.

**Comment**

Commissioner Haque-Hausrath expressed concern with the proposal as a single family home on 9.5 acres is not the kind of development the City should be encouraging; she indicated she would support staff's recommendation for denial.

Commissioner Ellison stated he is conflicted by this proposal. The staff report contains several appropriate reasons for denial, yet the line is so close it is attractive to make application for City service. He indicated he would vote to deny the extension.

Mayor Smith stated he too is conflicted by this proposal. Good intended actions like this are what created the current situation on the Westside of the city limits. While it is a hard decision to make, he indicated he would not vote for approval of the service enlargement.

Commissioner Elsaesser stated while he agrees with a lot of the concerns being raised, he believes the wastewater line was run through this area for a reason and is an example of the kind of growth the city does want to encourage. He's not sure denying these kinds of proposals are sending any message to the County. There is a lot of growth in the valley that is not being well controlled and this is one area the City can help control.

Commissioner Haladay referred to Commissioner Ellison's previous comments regarding the use of City services by residents living outside the City limits. The City sells a product by the services and quality of life it provides. Some citizens don't understand what product they are receiving by being annexed. He expressed frustration over County residents using City services and amenities but not paying for them and indicated a premium should be charged to citizens living outside the City limits and desiring to use City services. He summarized essentially a premium should be charged to utilize City benefits and advantages but not live within the limits and pay City taxes.

Commissioner Elsaesser discussed a previous issue with water/wastewater extension to Warren School. He noted for the record, he agrees with Commissioner Haladay that there should be some sort of rate structure to apply in these situations.

**Vote**

Motion failed 1-4, with Mayor Smith and Commissioners Ellison, Haladay and Haque-Hausrath voting no.

**Motion**

**Commissioner Haladay moved denial of enlargement of the City of Helena Wastewater Service Area to include all of Lot 13 of the Country Club Park subdivision, Lewis and Clark County, Montana.** Commissioner Ellison seconded the motion. Motion carried 4-1, with Commissioner Elsaesser voting no.

- C. CONSIDER A RESOLUTION TO ESTABLISH FEES TO BE CHARGED FOR THE LAST CHANCE SPLASH WATERPARK AND POOL FOR THE 2015 SEASON.

**Staff Report**

Recreation Manager Liz Jones reported at the end of every pool season, City staff evaluates areas where improvements to the aquatic's operations, programs and customer service can be made. As a result, changes are often proposed in the form of expanded programs and services or adjustment to fees.

During the 2014 season, the aquatics staff received numerous requests for private swim lessons. City staff believes private swim lessons should be a service that is provided as part of the City's overall swim lesson program. As such, the public would be able to request a private swim lesson that is taught by a swim instructor employed by the City and revenues would be collected by the City.

City staff made a comparison of the state and local market for private swim lesson fees. The proposed fees fall within the market range and allow for resident and non-resident differential rates. Private swim lessons are defined as one participant and one instructor unless a participant's sibling is of the same swimming ability or level. In that case, a private lesson for two participants is allowed and subject to proposed fees.

Changes to fees for other existing services are not proposed at this time. Manager Jones recommended approval of the proposed resolution.

**Discussion**

Commissioner Haque-Hausrath reported she had received the following comments/requests from a Helena citizen and asked for more information on both issues. First, that private lessons occur in the morning instead of during open swim; and second, parents be allowed to request a specific instructor to better match with their children's abilities.

Ms. Jones addressed both comments and explained the ways private lessons have been structured are with the intent to be fair and equitable to all users of the pool. She noted staff would do the best they can to accommodate specific requests but it will not be possible to change existing staff schedules to make certain instructors available at specific times.

Commissioner Ellison commended Ms. Jones for proposing fees for 2015 that are virtually the same as 2014 and will be appreciated by the public. Mayor Smith concurred with Commissioner Ellison's comments.

**Public Testimony**

Mayor Smith declared the public portion of the hearing open and called for any persons wishing to address the Commission.

There being no persons wishing to address the Commission, Mayor Smith closed the public hearing.

**Motion**

**Commissioner Ellison moved approval of a resolution to establish fees to be charged for the Last Chance Splash Waterpark and Pool for the 2015 season.** Commissioner Haladay seconded the motion. All voted aye, motion carried. **Res #20153**

***Public  
Communications***

**PUBLIC COMMUNICATIONS**

No public communications were given.

***Meetings of  
Interest***

**MEETINGS OF INTEREST**

The next Administrative Meeting is April 1, 2015 and the next Commission Meeting is April 6, 2015. The City/County Joint Work Session will be held April 2<sup>nd</sup> at 3:00 p.m. to review jointly funded budgets.

***Adjournment***

There being no further business to come before the Commission, the meeting was adjourned at 7:48 p.m.

/S/ James E. Smith  
Mayor James E. Smith

ATTEST:

/S/ Debbie Havens  
Clerk of the Commission